

37th Annual Jay L. Westbrook Bankruptcy Conference
November 14*, 15-16, 2018 • Four Seasons Hotel • Austin, TX

Wednesday Evening, Nov. 14, 2018

6:00 pm

John C. Akard Lecture Delivered by Melissa B. Jacoby

Melissa B. Jacoby is the Graham Kenan Professor of Law at the University of North Carolina at Chapel Hill, where she teaches bankruptcy law, contract law, and commercial law, including and especially secured transactions. Professor Jacoby's Akard Lecture is entitled *Bankruptcy as a Public-Private Partnership*.

Jacoby is an elected member to the American Law Institute, the National Bankruptcy Conference, the American College of Bankruptcy, and the American College of Commercial Finance Lawyers, and has served as the Robert M. Zinman Scholar for the American Bankruptcy Institute. She is a recipient of the Grant Gilmore Award for scholarship from the American College of Commercial Finance Lawyers and the Byrd Award for teaching, among other honors. Her recent scholarly articles include *Tracing Equity: Realizing and Allocating Value in Chapter 11* (with Ted Janger), published in the Texas Law Review, and *Corporate Bankruptcy Hybridity*, forthcoming in the University of Pennsylvania Law Review, which will be highlighted in her Akard Lecture.

Early in her career, Jacoby was a law clerk for the Honorable Robert E. Ginsberg of the United States Bankruptcy Court for the Northern District of Illinois and the Honorable Marjorie O. Rendell of the United States Court of Appeals for the Third Circuit. Jacoby graduated from the University of Pennsylvania Law School, as well as from Penn's College of Arts and Sciences, majoring in history. Jacoby blogs about bankruptcy and commercial law on Credit Slips and is @melissabjacoby on Twitter.

Melissa B. Jacoby, University of North Carolina School of Law - Chapel Hill, NC

Thursday Morning, Nov. 15, 2018

Presiding Officer:

Richard Robbins, AlixPartners LLP - Houston, TX

7:30 am

Registration Opens

Includes continental breakfast.

8:35 am

Welcoming Remarks

8:45 am

Duberstein and Elliott Cup Team Recognition

Professor Jay L. Westbrook introduces the Duberstein and Elliott Cup Competition Teams.

Baylor Law School

Duberstein National Semi-Finalist:

Kevin Miller
Leah Towe
Taylor Fitzner

Coaches:

Mr. Larry Bates
Ms. Deborah Perry

Southern Methodist University Dedman School of Law

Elliott Cup Champions and Duberstein National Finalists:

Alex Cohen
Emma Persson
Alex Rahn

Coaches:

Mr. Omar Alaniz
Ms. Elizabeth Boydston
Mr. Tim Springer

The University of Texas School of Law

Duberstein National Finalists:

Stephanie Bradford
Gary Yevelev

Duberstein National Semi-Finalists:

David Stevenson
Nathan Dehnert

Coaches:

Ms. Debbie Langehennig
Mr. Jay Ong
Mr. Brian Cumings
Ms. Hannah Roblyer

8:55 am
1.25 hrs
0.50 hr ethics

Recent Developments

Professor Westbrook, and his usual supporting cast, discuss the year's most important business and consumer cases.

Moderator:

Jay L. Westbrook, The University of Texas School of Law - Austin, TX

Panelists:

R. Byrn "Byrnie" Bass Jr., Attorney at Law - Lubbock, TX
Deborah B. Langehennig, Chapter 13 Trustee - Austin, TX
Bill Rochelle, American Bankruptcy Institute - New York, NY
Deborah D. Williamson, Dykema Cox Smith - San Antonio, TX

10:10 am
0.75 hr

Mediation Maximus

Do's and don'ts to maximize the potential for a positive mediated outcome and avoid wasting time and money.

Hon. Leif M. Clark, Leif M. Clark Consulting, PLLC - San Antonio, TX
Sylvia A. Mayer, S. Mayer Law PLLC - Houston, TX

10:55 am

Break

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| <p>11:05 am 0.75 hr</p> | <p>What Every Bankruptcy Lawyer Should Know About the Tax Cuts and Jobs Act of 2017</p> <p>Discuss the changes in the tax law, brought about by the enactment of the Tax Cuts and Jobs Act of 2017, that impact debtors and creditors in bankruptcy proceedings, and, in particular, how those changes impact the value of the bankruptcy estate to prospective bidders for assets in the estate.</p> <p>John T. Bradford, Liskow & Lewis - Houston, TX</p> |
| <p>11:50 am 0.75 hr</p> | <p>Puerto Rico Lessons Learned</p> <p>Puerto Rico's insolvency is changing the law of municipal insolvencies — a spate of litigation has already produced numerous decisions from the trial court, six opinions from the U.S. Court of Appeals for the 1st Circuit Court and one from the Supreme Court in the last two years alone. Hear lessons learned, and issues opened and unresolved, for other troubled state and local governments.</p> <p>Amy Caton, Kramer Levin Naftalis & Frankel LLP - New York, NY</p> |
| <p>12:35 pm</p> | <p>Lunch on Your Own</p> |

Thursday Afternoon, Nov. 15, 2018

Presiding Officer:

Robin Russell, Hunton Andrews Kurth LLP - Houston, TX

Business Track

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| <p>1:50 pm 0.50 hr ethics</p> | <p>In the Hot Seat: In-House Counsel as Witnesses</p> <p>The use of in-house counsel as a witness has potential benefits and - more importantly - pitfalls for both the client and counsel. Learn what is the best way to navigate those ethical and legal pitfalls.</p> <p>Eric D. Madden, Reid Collins & Tsai LLP - Dallas, TX</p> |
| <p>2:20 pm 0.50 hr</p> | <p>Adequate Protections</p> <p>Evaluate the trends of adequate protection in the use, sale or lease of property of the estate. Focus on a few case studies and review the legal trends and types of adequate protection which courts have either recently approved or which may become more common in the future, especially as interest rates and liquidity tightens.</p> <p>Patrick L. Hughes, Haynes and Boone, LLP - Houston, TX</p> |
| <p>2:50 pm 0.50 hr</p> | <p>Workout Tactics and Other Strategies to Avoid Chapter 11 Bankruptcy</p> <p>With the expense of Chapter 11 increasing, what tactics or strategies should a restructuring professional consider if Chapter 11 bankruptcy is not the preferred alternative.</p> <p>Kevin Mark Lippman, Munsch Hardt Kopf & Harr, P.C. - Dallas, TX Mark Shapiro, GlassRatner - Dallas, TX</p> |
| <p>3:20 pm</p> | <p>Break</p> |

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| 3:30 pm 0.75 hr | <p>Expert Nightmares</p> <p>Getting your expert’s opinion into the record and adopted by the Court can be the difference between victory and defeat. Using published opinions as a springboard, key turning points in assisting and persuading the Court with expert opinions are examined.</p> <p>Hon. Marvin Isgur, U.S. Bankruptcy Court, Southern District of Texas - Houston, TX J. Ken Johnson, Martin Walton LLP - Houston, TX</p> |
| 4:15 pm 0.75 hr | <p>(Almost) Everything You Ever Wanted to Know About Chapter 11 Plans</p> <p>Before heading off for cocktail hour, be sure to brush up on chapter 11 plan developments so you can be the life of the party. Discuss recent plan-related developments including substantive consolidation, “per plan” versus “per debtor” considerations, third-party releases, artificial impairment, good faith and a number of other issues that will keep your guests thoroughly entertained.</p> <p>Aaron Michael Kaufman, Dykema Gossett PLLC - Dallas, TX David W. Parham, Akerman - Dallas, TX Alexandra Schwarzman, Kirkland & Ellis LLP - Chicago, IL</p> |
| 5:00 pm | <p>Adjourn to Reception</p> <p>Jay L. Westbrook Bankruptcy Conference Reception</p> <p>Join program faculty and attendees for drinks and hors d'oeuvres.</p> <p>Thank You to Our Reception Sponsor AlixPartners LLP</p> |

Consumer Track

Presiding Officer:

Hon. John C. Akard, U.S. Bankruptcy Judge, Retired - Tomball, TX

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| 1:50 pm 0.75 hr 0.50 hr ethics | <p>Jevic in the Consumer Context</p> <p>Can a Chapter 7 trustee really sell my underwater homestead? Some courts say yes, but <i>probably</i> not in Texas.</p> <p>Michael V. Baumer, Law Office of Michael Baumer - Austin, TX</p> |
| 2:35 pm 0.75 hr | <p>Automatic Stay/Turnover</p> <p>Is refusal to turn over property post-petition a violation of the stay? Discuss turnover after <i>In Re Cowan</i>, 849 F. 3rd 943 (10th Cir. 2017).</p> <p>Hon. Jeffrey P. Norman, U.S. Bankruptcy Court, Southern District of Texas - Houston, TX</p> |
| 3:20 pm | <p>Break</p> |
| 3:30 pm 0.75 hr | <p>Loss Mitigation in Texas</p> <p>Not just for homestead! A committee of the Bankruptcy Law Section has submitted a loss mitigation program for statewide implementation to our bankruptcy judges. Hear the latest on the loan modification program proposed for Texas.</p> <p>Pamela A. Bassel, Standing Chapter 13 Trustee for the Northern District of Texas - Fort Worth, TX</p> |

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| <p>4:15 pm 0.75 hr</p> | <p>Bankruptcy Exemptions - A Practical Approach</p> <p>Bankruptcy Exemptions can be a debtor's best friend or worst nightmare if not used correctly. Attend this breakout session where Judges Gargotta and Rodriguez will discuss how to deal and not deal with exemption issues pre-bankruptcy. As an added bonus, a portable "Bankruptcy Exemption - Quick Reference Guide" prepared by the Judges is available to the first 50 attendees. Don't miss out!</p> <p>Hon. Craig A. Gargotta, U.S. Bankruptcy Court, Western District of Texas - San Antonio, TX Hon. Eduardo V. Rodriguez, U.S. Bankruptcy Court, Southern District of Texas - McAllen, TX</p> |
| <p>5:00 pm</p> | <p>Adjourn to Reception</p> |
| | <p>Jay L. Westbrook Bankruptcy Conference Reception</p> <p>Join program faculty and attendees for drinks and hors d'oeuvres.</p> <p>Thank You to Our Reception Sponsor AlixPartners LLP</p> |

Friday Morning, Nov. 16, 2018

Presiding Officer:

Chris López, Weil, Gotshal & Manges LLP - Houston, TX

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| <p>7:45 am</p> | <p>Conference Room Opens</p> <p>Includes continental breakfast.</p> |
| <p>8:15 am 0.75 hr 0.50 hr ethics</p> | <p>Legal Ethics About Cryptocurrencies</p> <p>Bitcoin and others of the 1,600+ cryptocurrencies are headline news every day, but also possible assets of debtors in bankruptcy. Explore the ethical issues lawyers need to be aware of regarding cryptocurrencies.</p> <p>Moderator: John D. Baumgartner, Stout Advisory - Houston, TX Panelists: John P. Melko, Foley Gardere, Foley & Lardner LLP - Houston, TX Peter S. Vogel, Foley Gardere, Foley & Lardner LLP - Dallas, TX</p> |
| <p>9:00 am 0.75 hr ethics</p> | <p>#NoTweetingAfterMidnight: Ethical Risks in Social Media Use</p> <p>Hear valuable guidance on dealing with the ethical minefield that is social media. Using real world examples and ethics opinions, discuss the areas of practice in which social media use (or misuse) can present ethical and disciplinary concerns, as well as tips for using social media responsibly.</p> <p>John G. Browning, Passman & Jones - Dallas, TX</p> |

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| 9:45 am 0.75 hr | <p>Technology in the Courtroom</p> <p>Overview of courtroom technologies available to effectively and persuasively present visual and audio materials in court proceedings; evidentiary considerations associated with such technology use; and related practice tips and pointers.</p> <p>Hon. David R. Jones, U.S. Bankruptcy Court, Southern District of Texas - Houston, TX</p> |
| 10:30 am | <p>Break</p> |
| 10:45 am 0.50 hr | <p>Circuit Splits</p> <p>Discuss key decisions distinguishing the Fifth Circuit from other Circuits in business bankruptcy cases.</p> <p>Christina W. Stephenson, Husch Blackwell LLP - Dallas, TX</p> |
| 11:15 am 0.50 hr | <p>Venue Reform</p> <p>Where is Senate Bill 2282?</p> <p>Eric M. Van Horn, McCathern PLLC - Dallas, TX</p> |
| 11:45 am | <p>Pick Up Lunch</p> |

Friday Afternoon, Nov. 16, 2018

Presiding Officer:

Drew McManigle, SierraConstellation Partners, LLC - Houston, TX

LUNCHEON PRESENTATION

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| | <p>Thank You to Our Luncheon Sponsor</p> <p>SierraConstellation Partners LLC</p> |
| 12:05 pm 0.75 hr | <p>Marijuana and Bankruptcy: Just Say No!</p> <p>Examine the intersection of Bankruptcy and Marijuana Laws.</p> <p>Kyung S. Lee, Kasowitz Benson Torres LLP - Houston, TX Steven N. Levine, Husch Blackwell LLP - Denver, CO</p> |
| 12:50 pm | <p>Break</p> |
| 1:05 pm 0.50 hr | <p>Fiduciary Duties In Other Systems</p> <p>Discuss how far from the United States they stray and are they right to do so?</p> <p>John Pottow, University of Michigan Law School - Ann Arbor, MI</p> |

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| <p>1:35 pm 0.75 hr</p> | <p>Individual Chapter 11's and the Twists and Turns They Can Present</p> <p>Explore what an individual Chapter 11 case is, what it isn't, and how to identify and address some of the challenges you may experience along the way.</p> <p>Hon. E. Lee Morris, U.S. Bankruptcy Court, Northern District of Texas - Fort Worth, TX Paul E. Heath, Vinson & Elkins LLP - Dallas, TX</p> |
| <p>2:20 pm</p> | <p>Break</p> |
| <p>2:35 pm 0.75 hr ethics</p> | <p>Ethical Considerations in Section 363 Sales</p> <p>When (if ever) may insiders and court-approved professionals acquire bankruptcy estate assets? What must be disclosed? What ethical restrictions apply to sale negotiations? What are the consequences of unethical actions when transferring estate assets?</p> <p>Susan M. Freeman, Lewis Roca Rothgerber Christie LLP - Phoenix, AZ</p> |
| <p>3:20 pm 1.00 hr</p> | <p>Judicial Spotlight</p> <p>The old guard interviews the new guard. Hear Judges Isgur and Gargotta facilitate conversation with Judges Rodriguez and Norman regarding judicial philosophies, procedures, and general practice tips. Come and learn more about what makes all of these judges tick!</p> <p>Hon. Craig A. Gargotta, U.S. Bankruptcy Court, Western District of Texas - San Antonio, TX Hon. Marvin Isgur, U.S. Bankruptcy Court, Southern District of Texas - Houston, TX Hon. Jeffrey P. Norman, U.S. Bankruptcy Court, Southern District of Texas - Houston, TX Hon. Eduardo V. Rodriguez, U.S. Bankruptcy Court, Southern District of Texas - McAllen, TX</p> |
| <p>4:20 pm</p> | <p>Adjourn</p> |